

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

The Recovery Project, LLC
Petitioner

File No. 21-1771-02

v

Auto Club Group Insurance
Respondent

Issued and entered
this 18th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

This order supersedes Order No. 21-1771, issued January 31, 2022, to clarify the dates of service at issue.

On November 23, 2021, The Recovery Project, LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 23 and 30, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 14, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 29, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 20, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 1, 6, 8, 13, 15, 20, 22, and 27, 2021; and August 3, 5, 10, 12, 17, and 19, 2021. The Current Procedural Terminology (CPT) code at issue is 97110, which is described as therapeutic exercise. In its *Explanation of Benefits* letter, the Respondent referenced Official Disability Guidelines (ODG) for physical and occupational therapy for head conditions. The Respondent noted that the injured person has received 806 physical therapy treatments since April 30, 2012 and concluded that the treatment “exceeded the guideline recommendations for all regions documented” in the records.

With its appeal request, the Petitioner submitted progress notes along with a *Letter of Medical Necessity* which identified the injured person’s diagnosis as C7 quadriplegia relating to a spinal cord injury from a motor vehicle accident in July of 2007. The Petitioner explained that the injured person had right foot surgery in 2009 and noted that he “has been doing outpatient physical therapy off and on since 2012 to help prevent secondary complications to his shoulders, neck, back, and legs” relating to frequent wheelchair use. The Petitioner stated that the injured person has been making objective gains in therapy and will continue to require therapy to prevent further physical deterioration.

The Petitioner’s request for an appeal stated:

[The injured person] has persistent shoulder pain bilaterally that scores 3/10 currently on pain scale, and 5/10 at its worst...The supervised exercise program focused on keeping the rotator cuff muscles strong and helping to prevent further damage to shoulders that would affect his ability to do all his mobility related to activities of daily living (ADLs)...Due to his spinal cord injury and lack of trunk balance, he is unable to perform a home exercise program that combines safety and therapeutic effectiveness through intensity, while monitoring the shoulders and rotator cuff musculature, since caregivers do not have this expertise.

In its reply, the Respondent reaffirmed its position and referenced ODG as well as the American College of Occupational and Environmental Medicine (ACOEM) guidelines for cervical and thoracic spine, paralysis, paraplegia, and quadriplegia rehabilitation. The Respondent stated:

The physical therapy treatment quantity exceeds the ACOEM and ODG recommendation guidelines, well over 26 weeks of physical therapy sessions have been provided. Substantial opportunity has been given to initiate and reinforce a home conditioning program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the dates of service at issue and the treatment was not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed doctor of physical therapy. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the American Occupational Therapy Association (AOTA) practice guidelines for adults with spinal cord injury and medical literature for its recommendation.

The IRO reviewer explained that the injured person "lives in a wheelchair accessible home with his wife, uses a manual wheelchair, transfers independently, [and] stands in a standing frame for 45-60 minutes." The IRO reviewer noted that the injured person has had 820 therapy visits as of August 2021.

However, the IRO reviewer opined that the medical necessity of the physical therapy treatment provided to the injured person was supported by the specificity of documentation in the Petitioner's clinical notes which showed ongoing progress and measurable goals. Specifically, the IRO reviewer noted:

[The injured person's] physical therapy progress report summary is as follows: 30 second arm curls 21 reps, dynamic balance edge of mat 70 seconds, grip strength R. 80lbs, L 70lbs, 90/90 hamstring R. -20, L. -35, and functional reach forward for wheelchair R. 15, L. 14...The treating provider documented measurable clinical goals and...functional gains as a result of the active rehabilitative therapy.

The IRO reviewer further stated that AOTA treatment guidelines support therapeutic treatment to restore and maintain the injured person's overall condition including improving range of motion, strength, and ADLs. In the injured person's scenario, the IRO reviewer opined:

Based on the clinical documentation indicating great progress with previous therapy, it is my opinion that the therapy in question was reasonable and necessary to "maintain, prevent, and slow further deterioration" of the [injured person's] condition.

The IRO reviewer recommended that the Director reverse the Respondent's determination that the physical therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER


The Director reverses the Respondent's determinations dated August 23 and 30, 2021.

For the July 1, 2021 date of service, the Petitioner is entitled to payment in the full amount billed and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). For the remaining dates of service of July 3, 5, 6, 8, 13, 15, 17, 19, 20, 22, and 27, 2021, and August 10 and 12, 2021, the Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford